

MEMORIAL

OF

MEMBERS OF THE BAR OF WASHINGTON COUNTY, D. C.,

FOR

A repeal of that part of the act of Congress which requires one of the judges of the circuit court of the District of Columbia to reside in the county of Alexandria.

DECEMBER 29, 1845.—Referred to the Committee on the Judiciary.

DECEMBER 30, 1845.—Committee discharged, and referred to the Committee for the District of Columbia.

FEBRUARY 17, 1846.—Ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

The memorial of the undersigned, members of the bar of the District of Columbia,

RESPECTFULLY SHOWETH :

That an act of Congress was recently passed requiring that one of the judges of the circuit court of this District should permanently reside in the city of Alexandria.

Your memorialists would respectfully represent to your honorable bodies, that it may well be doubted whether any circumstances exist which render such a provision of the law desirable or expedient. If, at any time, such circumstances did exist, we may say with entire confidence that they do so no longer. More than five-sixths of the business of the circuit court originates in and is conducted in the county of Washington. Of that business, under the law, as it now exists, a very insignificant fragment is executed by the judges at their chambers. The abolition of imprisonment for debt has substantially repealed the insolvent law, and few, if any, instances occur in which either is required to execute any functions under this branch of the law. It is not believed that a single instance has occurred in which their action has been required in the county of Alexandria under the statute restricting arrest on mesne process. There remains, therefore, only the business of granting injunctions, which a single judge can be required to attend to at his chambers during the vacation. The number of injunction cases is very small, and probably never exceeds six in the county of Alexandria during any twelvemonth.

Under these circumstances, we think it is manifest that no considerations of public or local convenience require that one of the judges should be com-

pelled to reside in one rather than any other part of the District. The inconveniences which may occasionally occur, but must necessarily rarely happen, from counsel being compelled to come from Alexandria to Washington for the purpose of procuring an order for an injunction, are too inconsiderable to be for a moment placed in competition with the many private as well as public considerations, which, in our judgment, call for a repeal of the law.

Among these inconveniences, it may perhaps be sufficient to call the attention of your honorable bodies to one of paramount importance. If one of the judges resides in Alexandria, and the other in Washington county, it will be indispensable that the Alexandria judge should take up his residence in Washington during the entire session of the circuit court, or that all consultations among the judges in the recess of the sittings should be dispensed with. It is scarcely physically practicable, and cannot be anticipated, that the judges residing in the one place will be able to devote the time necessary to these necessary consultations at a remote place.

We forbear to enlarge upon or to enumerate the various reasons which present themselves to our minds recommending the alteration we have ventured to suggest. It may be sufficient to say, that for forty-four years we have lived under a different system without any practical inconvenience; that during this period the present chief judge did live in Alexandria county, but that he was compelled, by the most urgent considerations, both public and personal, to remove to the city of Washington. It is also understood that the present judge of the criminal court has determined to fix his residence in Alexandria, and thus remove the principal grounds upon which Congress was induced to enact the law, which we respectfully ask your honorable bodies to repeal.

J. H. Eaton,
Hugh Caperton, jr.
Edw. Swann,
Henry May,
D. A. Hall,
Davidge & Semmes,
Jos. H. Bradley,
Ch. Lee Jones,
J. B. B. Wilson,
Danl. Ratcliff,
Jno. E. Addison,
Wm. T. Swann,
A. S. Bledsoe,
W. Jones,
A. Tho. Smith,
Phil. Barton Key,
Jno. H. Saunders,
J. B. H. Smith,

Henry M. Nourse,
John E. Norris,
James Hoban,
U. S. Attorney, D. C.
Richard S. Coxe,
Henry M. Morfit,
John Marbury,
Clement Cox,
J. M. Carlisle,
W. Lenox,
Richard Wallach,
J. Hellen,
H. H. Dent,
A. H. Lawrence,
W. Resin,
William R. Woodward,
Robert Ould,
A. C. Peachy.

NOVEMBER, 1845.

MAYOR'S OFFICE,
Alexandria, December 24, 1845.

To the Senate of the United States :

I have the honor, herewith, to submit to your consideration a copy of a preamble and resolution passed by the common council of Alexandria, on the 19th instant, in relation to the repeal of the act of Congress, approved April 4, 1844, requiring, thereafter, one of the judges of the circuit court for the District of Columbia to reside in the town of Alexandria.

From the preamble and resolution it will appear that a judge has been appointed since the passage of the act of 1844, who has made no demonstration of a disposition on his part to comply with the provisions of that law; and the common council, believing that an attempt will be made at the present session of Congress to obtain a repeal of said act, have instructed me to lay before you the facts in the case, and in their name to remonstrate against the repeal of said law.

The facts are substantially these : That the citizens of Alexandria, having suffered great inconvenience, and been subjected to considerable expense in consequence of having no judge of the circuit court residing in this portion of the District, petitioned the Congress of the United States to pass a law requiring the judge who should fill the next vacancy on the bench to reside in the town of Alexandria; which petition was granted, and the law passed with great unanimlty, and was approved the 4th day of April, 1844. The first vacancy occurred on the death of the Hon. B. Thruston, when the Hon. James Dunlop was appointed in his stead. We then flattered ourselves that our grievances were removed, as the law would now provide a remedy. Judge Dunlop accepted the appointment, and, as was understood at the time, indicated an intention of removing to Alexandria as soon as he conveniently could. One term of the court has passed, and another is at hand, without his having evinced any disposition to come amongst us; but, on the other hand, a memorial has been prepared and signed, in the county of Washington, asking a repeal of the law, *in which request Judge Dunlop unites*, and justifies his course upon the ground that the continuance of the law would be *onerous to him*; and that since the passage of the act abolishing imprisonment for debt, there is little necessity for a judge during vacation. He sought, obtained, and accepted the office, with a full knowledge of the requirements of the law. The act abolishing imprisonment for debt, and that regulating arrests on mesne process, were passed prior to that requiring the judge to reside in the town of Alexandria.—(See Acts approved March 3, 1843, August 1, 1842, and April 4, 1844.) In compliance with the wishes of the common council of Alexandria, in their name and on behalf of the citizens of Alexandria, who are of one mind in this matter, I remonstrate against this unreasonable interference of the citizens of Washington county, and their attempt to deprive us of our just rights. What public considerations can prompt them? Have they not two judges, competent to discharge all duties in session or vacation? Why ask the repeal of a law beneficial to us, without being injurious to them?

While the members of the common council have joined in a petition to the Senate for a *more speedy and effectual remedy*, by asking the refusal of the advice and consent of the Senate to the appointment of Judge Dunlop, they, in their corporate capacity, have commissioned me to remonstrate against the *permanent injury* to the community, over whose interest they

preside, which would result from a repeal of the law. Relying, *disfranchised* as we are, upon the justice, liberality, and magnanimity of the Senate of the United States, and confidently believing that our claims will be duly considered, and our rights and interests protected,

I have the honor to be, very respectfully, your obedient servant,

JOSEPH EACHES, *Mayor*.

CORPORATION OF ALEXANDRIA.

IN COUNCIL, 19th of December, 1845.

The following preamble and resolution were unanimously adopted, viz:

Whereas, under a special act of Congress, the judge of the circuit court of the District of Columbia, first appointed after its passage, was required to reside in Alexandria:

And whereas, under said act, a judge has, some months since, been appointed, and no demonstration has been made on his part of an intention to comply with its provisions:

And whereas, moreover, it is understood and believed that an attempt will be made during the present session of Congress to obtain a repeal of said act, to the manifest inconvenience and injury of the citizens of this town:

Be it resolved by the common council of Alexandria, That the mayor be requested to lay the facts in the case before the District Committees of both Houses of Congress, and to remonstrate, in the name of this council, against the repeal of the said law.

True extract from the minutes of the council.

Teste :

R. JOHNSTON, C. C.